

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 04 MAY 2005

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To:

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30/6

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/013995

International filing date (day/month/year)
07.12.2004

Priority date (day/month/year)
08.12.2003

International Patent Classification (IPC) or both national classification and IPC
E03C1/22

Applicant
XL PUMPS LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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10/582058

AP3 Rec'd PCT/PTO 08 JUN 2006
International application No.
PCT/EP2004/013995

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application,
- ☒ claims Nos. 15-20

because:

- ☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for the whole application or for said claims Nos. 15-20
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form ☐ has not been furnished
 - ☐ does not comply with the standard
 - the computer readable form ☐ has not been furnished
 - ☐ does not comply with the standard
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
- ☐ See separate sheet for further details

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|-------------|
| Novelty (N) | Yes: Claims | 2,3-8,10-14 |
| | No: Claims | 1,9 |
| Inventive step (IS) | Yes: Claims | 3-8,14 |
| | No: Claims | 1,2,9,10-13 |
| Industrial applicability (IA) | Yes: Claims | 1-14 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

10/582058

AP3 Rec'd PCT/PTO 28 JUN 2005
International application No.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

PCT/EP2004/013995

1. Reference is made to the following documents:

D1: GB 2 361 419-A

Referring to item III

2. The international search report is not established for claims **15 to 20**, see reasons therefor in the search report. The subject-matter of claims 15 to 20 is not a subject of this written opinion.

Referring to item V

3. The present application does not meet the requirements of Article 33(1) PCT because the subject-matter of independent claims **1 and 9** is not novel (Article 33(2) PCT).

3.1 Independent claim 1

- 3.1.1 Document **D1** discloses a pump for use with a shower base (see title), comprising a pump chamber (10, 12, 14) having an inlet (see fig. 1) for receiving water from the shower base and an outlet (see fig. 1) through which the water is pumped, wherein the inlet can be connected to the shower base such that the water drains directly into the pump chamber from the shower base.

Consequently, the subject-matter of independent claim **1** is not novel (Article 33(2) PCT).

- 3.1.2 It is noted at this point that the subject-matter of independent claim **1** is not clear (Article 6 PCT). The claimed product according to claim 1 seems to be a "pump". The pump is not actually the "machine" itself, far more it consists of those features which are not part of a shower tray. Claim 1 fails to disclose the relation with the machine "pump" and the "pump chamber"; for example that the "impeller" is placed in the pump chamber. Document D1 also discloses a "pump chamber" which "can" directly drain the shower tray. That the pump is "elsewhere" than in the "pump chamber" is not important, because this feature is not disclosed in the present claim 1.

- 3.2 The additional features of claim **2** are considered not to involve an inventive step (Article 33(3) PCT). A filter, grid, grill, sieve etc. is normally placed in an outlet or in this case in an "inlet".

- 3.3 The combination of features of claim **3** involves an inventive step (Article 33(3) PCT). The cited prior art suggests to place a "pump" outside the outlet device of a shower tray. It seems to be necessary to define at least with functional features what kind of "motor" we are dealing

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with and what is its function.

3.3.1 Dependent claims 4 to 8 being directly or indirectly dependent on claim 3 would be also allowable.

3.4 Independent claim 9

3.4.1 For the same reasons as stated under point 3.1.1 the claimed "shower base unit" according to claim 9 is not novel (Article 33(2) PCT).

3.5 Dependent claims 10 to 13 do not contain any additional features which, in combination with the features of any claim to which they refer, are either new or involve an inventive step with respect to the cited state of the art.

3.5.1 The reasons therefore are that the additional features of the said claims are either directly known from cited documents in the present proceedings or are a combination of features obvious to the man skilled in the art in consideration of the disclosure of the cited prior art or they concern only minor modifications which lie within the normal practice of the man skilled in the art.

3.6 Independent claim 14

3.6.1 The device according to claim 14 would be allowable as far as other independent claims were allowable, because it defines the relation of the "pump chamber" and the "pump": it indicates that the chamber is "suitable for" housing a "pump mechanism". As stated under point 3.3, the cited prior art does not suggest that.

Remarks:

4. In the event of a continuation of the procedure, the Applicant is invited to take account of the following points:

4.1 To meet the requirements of Rule 6.3(b) PCT, the independent claims should be properly cast in the two part form, with those features which in combination are part of the prior art being placed in the preamble (see document D1).

4.2 Reference signs in parentheses should be inserted in the claims to increase their intelligibility; this applies to both the preamble and characterising portion (Rule 6.2(b) PCT).

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- 4.3 The description must be brought into conformity with the new claims to be filed (Rule 5.1(a)(iii) PCT); care should be taken during revision, especially of the introductory portion including any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 34(2) PCT).
- 4.4 In order to enable carrying out the examination of the conformity of the amended application with the requirements of Article 34(2) PCT, the applicant is requested to clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which each these amendments are based (Rule 66.8 (b) PCT).

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